

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Helen Terndrup	Team: Team # 2	CCRB Case #: 201015037	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 10/16/2010 12:30 AM	Location of Incident: Marcy Avenue and Lafayette Avenue; the 79th Precinct stationhouse	Precinct: 79	18 Mo. SOL 4/16/2012	EO SOL 4/16/2012	
Date/Time CV Reported Mon, 11/01/2010 9:51 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 11/01/2010 9:51 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Jessica Herrera	17413	941040	079 PCT
2. POM Johnpaul Catano	20210	945159	079 PCT
3. POM Jimmy Ponce	29568	919574	079 PCT
4. POM Kharl Pinnock	30827	933185	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Smithu Samuel	10442	933322	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Johnpaul Catano	Force: PO Johnpaul Catano used physical force against § 87(2)(b) at Marcy Avenue and Lafayette Avenue.	
B.POF Jessica Herrera	Force: PO Jessica Herrera struck § 87(2)(b) with an asp at Marcy Avenue and Lafayette Avenue.	
C.POF Jessica Herrera	Discourtesy: PO Jessica Herrera spoke obscenely and rudely to § 87(2)(b) at Marcy Avenue and Lafayette Avenue.	
D.POF Jessica Herrera	Off. Language: PO Jessica Herrera made remarks to § 87(2)(b) based upon his sexual orientation at Marcy Avenue and Lafayette Avenue.	
E.POM Kharl Pinnock	Abuse: PO Kharl Pinnock strip-searched § 87(2)(b) at the 79th Precinct stationhouse.	
§ 87(4-b) § 87(2)(g)		
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Case Summary

On November 1, 2010, § 87(2)(b) filed this complaint by using the CCRB's online complaint submission form. On October 16, 2010, at 12:30 a.m., § 87(2)(b) was walking near Marcy Avenue and Kosciuszko Street in Brooklyn. The 79th Precinct conditions team, including PO Johnpaul Catano, PO Jessica Herrera, PO Jimmy Ponce, and PO Khari Pinnock, noticed § 87(2)(b) and approached him. The following allegations resulted:

Allegation A) Force: PO Johnpaul Catano used physical force against § 87(2)(b) at Marcy Avenue and Lafayette Avenue.

Allegation B) Force: PO Jessica Herrera struck § 87(2)(b) with an asp at Marcy Avenue and Lafayette Avenue. § 87(2)(g)

Allegation C) Discourtesy: PO Jessica Herrera spoke obscenely and rudely to § 87(2)(b) at Marcy Avenue and Lafayette Avenue.

Allegation D) Offensive Language: PO Jessica Herrera made remarks to § 87(2)(b) based upon his sexual orientation at Marcy Avenue and Lafayette Avenue. § 87(2)(g)

Allegation E) Abuse of Authority: PO Khari Pinnock strip-searched § 87(2)(b) at the 79th Precinct stationhouse. § 87(2)(g)

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old black male who is 5'7" tall and weighs 210 pounds. He has black hair and brown eyes.

Online Complaint

§ 87(2)(b) provided his first statement regarding this incident in the online complaint he submitted on November 1, 2010 (encl. 5A-D). § 87(2)(b) stated that at 12:30 a.m. on October 16, 2010, he was walking to meet his girlfriend near Marcy Avenue and

Kosciuszko Street in Brooklyn when a police van containing four to five officers pulled up alongside him. An officer asked to speak to § 87(2)(b) but he kept walking. An officer tackled him to the ground as he was holding his hands up. A female officer hit him in the buttocks with her baton after he was in handcuffs and lying on the ground. When § 87(2)(b) asked if he could get up off the concrete, the female officer replied, “No, bitch.” The female officer taunted § 87(2)(b) about his mother, called him a “project idiot,” and said that “her dick was bigger” than his. He was strip-searched in the 79th Precinct stationhouse.

CCRB Statement

On November 16, 2010, § 87(2)(b) was interviewed at the CCRB (encl. 7A-E). On October 16, 2010, at 12:39 a.m., § 87(2)(b) left his cousin’s house at § 87(2)(b) in Brooklyn. When he got outside, he called his girlfriend § 87(2)(b) from a pay phone at Nostrand Avenue and Lafayette Avenue and asked her to wait for him at Marcy Avenue and Kosciuszko Street. § 87(2)(b) began walking down Kosciuszko Street. As he neared Marcy Avenue, he saw a marked police van. The van, after passing § 87(2)(b) reversed and pulled up alongside § 87(2)(b). An officer, identified as PO Johnpaul Catano, who was sitting in the second row of seats behind the front passenger seat, said, “Excuse me, sir, can I talk to you for a minute?” § 87(2)(b) was tired, and since he did not think he was doing anything wrong and wanted to go home, he waved a hand at the van and shook his head. § 87(2)(b) started to cross the street, and then PO Catano jumped out of the van, ran over to § 87(2)(b) and tackled him to the ground, without saying anything further. § 87(2)(b) had lifted his hands up in the air as soon as he saw PO Catano exit the van, and he was standing still with his hands in the air when PO Catano tackled him. § 87(2)(b) sustained a scrape to his arm when he hit the ground. Four to five additional officers in uniform exited the van and ran over to § 87(2)(b). Almost immediately after as he had landed on the ground, § 87(2)(b) felt one blow impact his lower back/buttocks area. He believed that he had been hit with a nightstick or asp, but he had not seen this happen since he was facing the ground. He stated that it could have been a kick instead of a blow from a nightstick. After feeling the blow, § 87(2)(b) turned his head and looked behind him and saw PO Herrera standing above him. He did not notice if she was holding a nightstick at this time.

§ 87(2)(b) was handcuffed. After lying on the ground for several minutes, § 87(2)(b) asked PO Herrera if he could get up. PO Herrera replied, “No, bitch.” § 87(2)(b) got angry and called PO Herrera a “stupid bitch.” PO Herrera continually taunted § 87(2)(b) and § 87(2)(b) told PO Herrera, “Suck my dick.” PO Herrera said to § 87(2)(b) that her “dick was bigger than his.” § 87(2)(b) told PO Herrera to pull it out if that was the case. PO Herrera called § 87(2)(b) a “faggot.” § 87(2)(b) replied, “Your husband.” § 87(2)(b) could not remember all of the remarks PO Herrera made to him.

The officers put § 87(2)(b) into the backseat of a marked patrol car with two other officers, who had arrived after he had been arrested, and he was transported to the 79th Precinct stationhouse. The officers brought § 87(2)(b) up to the second floor. Before he was put into the holding cell, they stopped in a small hallway area at the top of the stairs. There were about five uniformed officers who stopped § 87(2)(b) there and told him to take off his clothes. One of the officers was a white male in uniform, one was an Indian male in uniform, and there were about three black male officers in uniform. He did not remember if any of these officers had also been in the van when he had been arrested. The officer who was giving the instructions to § 87(2)(b) was a black male in uniform, about 6’2” tall, with a mole on the side of his nose. § 87(2)(b) read the name on the officer’s shield as “Palatine” or “Polotane;” this officer was identified by the investigation as PO Kharl Pinnock. PO Pinnock told § 87(2)(b) to take off his clothes and his socks. The officers found a little scrap of

newspaper in § 87(2)(b)'s sock, containing a small amount of marijuana. Nothing else was recovered from the strip search. The only people who witnessed the strip search were the five officers.

Photo Series Viewing

On January 26, 2011, § 87(2)(b) viewed a photo series that included photos of all of the male officers assigned to the conditions unit, as well as all of the male officers assigned to work inside the 79th Precinct stationhouse (encl. 9A-EE). These officers included PO Johnpaul Catano, PO Jimmy Ponce, PO Khari Pinnock, PO Smithu Samuel, Sgt. Timothy Kornbluth, PO Shibu Madhu, PO Randy Williams, and PO David Sullivan. § 87(2)(b) selected the photo of PO Pinnock and stated that this officer was "PO Polotane" or "PO Palatine," and that this was the officer who was giving orders to him during the strip search in the hallway. § 87(2)(b) selected the photo of PO Samuel as being one of the officers standing in the hallway who witnessed him being strip-searched, but he made no allegations against PO Samuel. § 87(2)(b) also recognized PO Williams and PO Sullivan from seeing them inside the stationhouse, but he made no allegations against them. § 87(2)(b) did not recognize Sgt. Kornbluth, PO Madhu, PO Ponce or PO Catano.

Witness: § 87(2)(b)

On January 19, 2011, § 87(2)(b) provided a phone statement (encl. 10A). At approximately 12:30 a.m. on October 16, 2010, § 87(2)(b) was sitting in her parked car near Marcy Avenue and Kosciuszko Street in Brooklyn, waiting to pick up her boyfriend, § 87(2)(b). She noticed a marked police van, which reversed up the one-way street. § 87(2)(b) noticed her boyfriend on the sidewalk, pointing over to § 87(2)(b)'s car as he was speaking with the officers. § 87(2)(b) was too far away to hear any of their conversation. Officers exited the van tackled § 87(2)(b) to the ground, but § 87(2)(b) could not see which officers did this, as it was dark and she was too far away to see their faces. She did not hear any of their conversation. She noticed that after they had handcuffed § 87(2)(b), the officers appeared to be walking around looking for things on the ground.

NYPD Statements

Subject Officer: PO JESSICA HERRERA

- *PO Herrera is a § 87(2)(b)-old Hispanic female who has brown hair, brown eyes, and freckles. She is 5'7" tall and weighs 230 pounds.*
- *PO Herrera worked from 10:00 p.m. on October 15, 2010, until 6:35 a.m. on October 16, 2010, in uniform. She was assigned to conditions with PO Pinnock, PO Catano, PO Ponce, and PO Samuel, and the officers were assigned to a marked van with RMP #8525.*

Since the date of this incident, PO Jessica Herrera has changed her name to PO Jessica Fuentes. However, this report will refer to her as PO Herrera, as it was her name at the time.

Memo Book Entries

PO Herrera's memo book entries state that at 12:30 a.m., one male was stopped at the corner of Kosciuszko Street and Marcy Avenue (encl. 11A-C). The male ran as the officers pursued. The male tossed a bag of weed. He was apprehended at the corner of Lafayette Avenue and Marcy Avenue at 12:39 a.m. § 87(2)(b) was charged with § 87(2)(b)

§ 87(2)(b)

Complaint Report and Arrest Reports

The complaint report and arrest reports state that § 87(2)(b) was observed urinating in public, and when confronted by the police, he fled on foot (encl. 12A-F). While running, § 87(2)(b) was reaching into his waistband, where he removed a bag of marijuana and threw it. § 87(2)(b) was apprehended and flailed about to resist being handcuffed. § 87(2)(b) was found to have a switchblade knife on his person at the time of his arrest. A nightstick was used against § 87(2)(b) to restrain, control, and remove him.

CCRB Statement

On February 3, 2011, PO Herrera was interviewed at the CCRB (encl. 13A-C). At 12:30 a.m. on October 16, 2010, PO Herrera was riding in the conditions van near Kosciuszko Street and Marcy Avenue in Brooklyn when she observed a male (later identified as § 87(2)(b)) urinating against a wall on the sidewalk. The police van was four to five car-lengths from § 87(2)(b) at this point. The block was well-lit. PO Herrera observed § 87(2)(b) for about ten to fifteen seconds before the officers approached in the van. As PO Herrera was observing, § 87(2)(b) finished urinating and began walking.

The officers pulled up alongside § 87(2)(b) and from the van PO Pinnock, the driver, requested his identification. PO Herrera was sitting right behind PO Pinnock. § 87(2)(b) fled westbound on Kosciuszko Street. PO Ponce and PO Catano exited the van and pursued § 87(2)(b) on foot, while PO Herrera and PO Pinnock pursued § 87(2)(b) in the van. As he was fleeing from the officers, § 87(2)(b) pulled a large bag of marijuana and a large knife from his waistband and tossed them.

When they caught up with him at Marcy Avenue and Lafayette Avenue, PO Catano grabbed § 87(2)(b) by the hand. § 87(2)(b) resisted arrest by trying to run away, and PO Catano and PO Herrera each struck him in the legs with their asps as he was fleeing. PO Herrera struck § 87(2)(b) once in his legs with her asp. She was not sure how many times PO Catano struck § 87(2)(b) with his asp. PO Herrera did not recall if any other officer used an asp against § 87(2)(b) but stated that she knew both she and PO Catano used their asps. She did not know when PO Catano drew his asp. PO Herrera drew her own asp as soon as she caught up to § 87(2)(b). After PO Herrera and PO Catano struck him with the asps, § 87(2)(b) complied by getting onto the ground, where the officers handcuffed him. PO Herrera did not recall § 87(2)(b) being tackled to the ground or falling to the ground. After § 87(2)(b) was on the ground, he did not resist any further and complied with being cuffed. PO Herrera did not recall any officer aside from PO Catano and herself using a baton or asp against § 87(2)(b).

§ 87(2)(b) was surly and cursed at the officers, calling PO Herrera a “fat bitch” and a “cunt.” PO Herrera did not respond to § 87(2)(b) and did not recall calling him a “faggot” or a “bitch.” PO Herrera never told § 87(2)(b) that “her dick” was bigger than his. As soon as he was handcuffed, PO Herrera went back and recovered the knife and the marijuana from a location about one-half to one car length away from where he was apprehended. She prepared vouchers for these items, but she could not recall how much marijuana § 87(2)(b) had tossed or how it was packaged. She could not provide any details about the knife. To PO Herrera’s knowledge, § 87(2)(b) was not strip-searched. PO Herrera did not recall an amount of marijuana wrapped in newspaper being recovered from him.

Subject Officer: PO JOHNPAUL CATANO

- *PO Catano is a § 87(2)(b)-old Hispanic male who has brown eyes and black hair. He is 6'0" tall and weighs 195 pounds.*
- *PO Catano worked from 10:00 p.m. on October 15, 2010, until 6:35 a.m. on October 16, 2010, in uniform. He was assigned to conditions with PO Pinnock, PO Herrera, PO Ponce, and PO Samuel, and the officers were assigned to a marked van with RMP #8521.*

Memo Book Entries

PO Catano's memo book entries record that at 12:39 a.m., one arrest was made at Marcy Avenue and Lafayette Avenue (encl. 14A-C).

CCRB Statement

On March 9, 2011, PO Catano was interviewed at the CCRB (encl. 14A-C). At approximately 12:35 a.m. on October 16, 2010, PO Catano was riding in the conditions van near the intersection of Marcy Avenue and Kosciuszko Street in Brooklyn with PO Ponce, PO Pinnock, PO Herrera, and PO Samuel. PO Pinnock was the operator of the van, and PO Catano was sitting in the second row of the van, behind the front passenger seat. As the officers were driving, they observed an individual (later identified as § 87(2)(b)) urinating on the sidewalk. § 87(2)(b) was carrying a black plastic grocery bag and was standing on Kosciuszko Street, closer to the corner with Marcy Avenue.

When the officers attempted to stop § 87(2)(b) to issue him a summons for urinating in public, § 87(2)(b) fled. PO Ponce and PO Catano pursued § 87(2)(b) on foot, while PO Pinnock, PO Samuel, and PO Herrera followed in the van. As PO Ponce and PO Catano were chasing § 87(2)(b) they were yelling at him to stop and shouting, "Police! Don't move!" As he was fleeing the officers, § 87(2)(b) was digging in the waistband of his pants, over his left hip. He removed an item from the waistband and flung it away from him. PO Catano could not see what the item was that § 87(2)(b) threw.

PO Catano caught up to § 87(2)(b) about one block away from the place where they had first observed him. PO Catano grabbed the back of § 87(2)(b)'s clothing as § 87(2)(b) was still trying to run away. § 87(2)(b) resisted arrest by trying to push off of PO Catano and flailing his arms. As PO Catano and § 87(2)(b) were struggling, § 87(2)(b) lost his balance and they both fell to the ground. PO Ponce caught up and assisted PO Catano in attempting to handcuff § 87(2)(b). PO Catano was assigned an extendable asp on this date, but he did not draw it or use it at all during the incident. PO Catano never saw another officer draw or use their asp during the incident. PO Herrera, PO Pinnock, and PO Samuel came up upon PO Catano and PO Ponce as they were still struggling with § 87(2)(b). PO Catano did not see PO Herrera ever use her asp against § 87(2)(b) but stated that she might have, as his attention was directed toward getting § 87(2)(b)'s wrists cuffed. After PO Herrera and the other officers assisted, they were able to get § 87(2)(b) handcuffed. § 87(2)(b) was upset and was cursing at the officers, telling them, "Fuck you guys!" PO Catano did not hear any officers use profanity or offensive language towards § 87(2)(b). He did not hear PO Herrera refer to § 87(2)(b) as a "bitch" or a "faggot," and he did not hear her remark that "her dick was bigger than his."

The officers recovered a knife and a bag of marijuana from the ground near § 87(2)(b). PO Catano did not recover the items himself and did not know which officer had. PO Catano did not know if § 87(2)(b) was strip-searched at the 79th Precinct stationhouse.

Subject Officer: PO KHARL PINNOCK

- *PO Pinnock is a § 87(2)(b)-old black male who has black hair and brown eyes. He is 6'2" tall and weighs approximately 205 pounds.*
- *PO Pinnock worked from 10:00 p.m. on October 15, 2010, until 6:35 a.m. on October 16, 2010, in uniform. He was assigned to conditions with PO Catano, PO Herrera, PO Ponce, and PO Samuel, and the officers were assigned to a marked van with RMP #8521.*

PO Pinnock had no memo book entries regarding this incident (encl. 16A-C). On February 10, 2011, PO Pinnock was interviewed at the CCRB (encl. 17A-B).

At 12:30 a.m. on October 16, 2010, PO Pinnock was driving the conditions van down Kosciuszko Street to Marcy Avenue when he saw a male (identified as § 87(2)(b)) urinating on the sidewalk. PO Pinnock initially stated that he was able to see a steady stream of liquid emanating from § 87(2)(b). However, later in his interview, PO Pinnock stated that he observed § 87(2)(b)'s silhouette but did not see him urinating; instead, as soon as they had passed the male, one of the officers in the van informed PO Pinnock that the male was urinating on the sidewalk. PO Pinnock stopped the van and backed up. From the driver's seat, he asked § 87(2)(b) to stop. As soon as he put the van in park and the doors of the police van were opened, § 87(2)(b) started running. A few officers—including PO Ponce and one or two other officers PO Pinnock did not recall—jumped out of the van and pursued § 87(2)(b) on foot as he fled to Marcy Avenue and then ran up the street towards Lafayette Avenue. PO Pinnock and PO Herrera started following § 87(2)(b) in the van as § 87(2)(b) was pursued by the officers on foot.

PO Pinnock made no observations of § 87(2)(b) as he was running that led him to suspect § 87(2)(b) of any other crime. The officers stopped § 87(2)(b) between a few parked cars on Lafayette Avenue. Because this is a one-way street, PO Pinnock was unable to bring the van up to where § 87(2)(b) was stopped. PO Herrera exited the van and approached § 87(2)(b) while PO Pinnock parked the van. By the time PO Pinnock reached § 87(2)(b) he was already in handcuffs and was standing. PO Pinnock did not see § 87(2)(b) being apprehended or handcuffed. He was not sure which officers had apprehended § 87(2)(b). PO Pinnock did not recall § 87(2)(b) making any statements. He did not hear any officers have conversation with § 87(2)(b). He did not notice any injuries on § 87(2)(b). PO Pinnock never saw any officer draw or use their asp or baton during the incident. PO Pinnock never saw any officer use force against § 87(2)(b). He never heard PO Herrera use discourteous or offensive language toward § 87(2)(b) such as calling him a "bitch," or a "faggot," or telling him that "her dick was bigger than his." PO Pinnock did not recall if any evidence or contraband materials were recovered near § 87(2)(b).

PO Pinnock did not conduct any strip search of § 87(2)(b) or any other prisoners that evening. He was not aware of any other officer conducting a strip search of § 87(2)(b).

Subject Officer: PO JIMMY PONCE

- *PO Ponce is a § 87(2)(b)-old Hispanic male who has black hair and brown eyes. He is 5'10" tall and weighs 230 pounds.*
- *PO Ponce worked from 10:00 p.m. on October 15, 2010, until 6:35 a.m. on October 16, 2010 in uniform. He was assigned to the conditions team with PO Catano, PO Pinnock, PO Herrera, and PO Samuel, and the officers were assigned to a marked van with RMP #8521.*

PO Ponce had no memo book entries regarding this incident (encl. 18A-C). On March 18, 2011, PO Ponce was interviewed at the CCRB (encl. 19A-B). At approximately 12:30 a.m.

on October 16, 2010, PO Ponce was riding in the front passenger seat of the conditions van as the officers patrolled near Marcy Avenue and Kosciuszko Street in Brooklyn. As they were driving, PO Herrera noticed a male urinating on the sidewalk on Kosciuszko Street and directed the other officers' attention to the individual § 87(2)(b). PO Ponce did not observe § 87(2)(b) urinating; when he first noticed him, § 87(2)(b) was zipping up his pants and starting to walk. § 87(2)(b) was carrying a bag, but PO Ponce did not recall a description of the bag. From the front passenger seat, PO Ponce called out the window of the van to § 87(2)(b) telling him to stop. At this time, PO Ponce intended to stop § 87(2)(b) and possibly issue him a summons for public urination and to ascertain his reason for being in the area. He did not observe § 87(2)(b) doing anything else aside from walking and pulling up the zipper of his pants.

When PO Ponce called out to § 87(2)(b) § 87(2)(b) kept walking and slightly increased his speed. When PO Ponce and PO Catano exited the police van to approach § 87(2)(b) on foot, § 87(2)(b) broke into a run, heading east on Kosciuszko Street and turning right on Marcy Avenue to head south. In the middle of the block on Marcy Avenue, between Kosciuszko Street and Lafayette Avenue, § 87(2)(b) dropped the bag he was carrying, which fell to the ground. PO Ponce heard the sound of glass breaking. When § 87(2)(b) reached Lafayette Avenue, he turned right again, now heading westbound, as PO Ponce and PO Catano followed on foot. As he was running, § 87(2)(b) was reaching toward either his pants pockets or the front area of his waistband with both hands.

PO Catano caught up to § 87(2)(b) and grabbed him on Lafayette Avenue, towards the middle of the block between Marcy Avenue and Nostrand Avenue. PO Catano could not see what part of § 87(2)(b)'s body or clothing PO Catano grabbed hold of in order to stop § 87(2)(b). § 87(2)(b) struggled with PO Catano. PO Ponce caught up to § 87(2)(b) soon after PO Catano had. § 87(2)(b) was resisting by throwing punches, yelling, cursing and trying to get away from the officers. At some point during the struggle (PO Ponce did not recall precisely at what point), a metal object fell from § 87(2)(b)'s person onto the cement, and PO Ponce heard the item ring against the ground. § 87(2)(b), PO Ponce, and PO Catano all fell to the ground during the struggle. On the ground, PO Catano and PO Ponce were able to overcome § 87(2)(b)'s resistance and handcuff him. They never punched, struck, or kicked him during this time, and PO Ponce did not see any other officer strike, punch, or kick § 87(2)(b). PO Ponce never drew or used his asp during this incident. He did not see any officer, including PO Catano or PO Herrera, ever draw, extend or use their asp. After § 87(2)(b) had been handcuffed, the officers searched around the area and found that § 87(2)(b) had dropped a knife. A small quantity of marijuana was also recovered from the ground, but PO Ponce did not recall seeing § 87(2)(b) drop the marijuana.

§ 87(2)(b) was screaming at the officers and cursing at them, saying "What the fuck you want, you motherfuckers?" PO Ponce never heard PO Herrera use profanity or offensive language towards § 87(2)(b) in response, such as calling him "bitch" or a "faggot," or telling him that "her dick was bigger than his." PO Catano recovered the marijuana and the knife and provided them to PO Herrera. PO Ponce never saw § 87(2)(b) inside the 79th Precinct stationhouse, and he did not know if § 87(2)(b) was ever strip-searched.

Witness Officer: PO SMITHU SAMUEL

- *PO Samuel is a § 87(2)(b)-old Asian male who is 5'9" tall and weighs 210 pounds. He has black hair and brown eyes.*
- *PO Samuel worked from 10:00 p.m. on October 15, 2010, until 6:35 a.m. on October 16, 2010 in uniform. He was assigned to the conditions team with PO Catano, PO Pinnock, PO Herrera, and PO Ponce, and the officers were assigned to a marked van with RMP #8521.*

PO Samuel had no memo book entries regarding this incident (encl. 20A-B). On February 18, 2011, PO Samuel was interviewed at the CCRB (encl. 21A-B). PO Samuel did not recall the arrest of § 87(2)(b) at 12:30 a.m. on October 16, 2010. He was shown a photo of § 87(2)(b) but did not recognize him. A synopsis of the incident was provided but did not refresh PO Samuel's memory. PO Samuel did not recall PO Pinnock strip-searching a prisoner in the hallway at the stationhouse. He did not recall if any prisoners were strip-searched at the stationhouse that night.

NYPD Documents

- The police radio communications records for this incident show that the 79th Precinct conditions unit put over a report of a foot chase near Nostrand Avenue and Lafayette Avenue at 12:38 .m. on October 16, 2010, and requested assistance (encl. 23A-D). They then reported that no further units were needed, as the suspect had been apprehended on Nostrand Avenue between Marcy Avenue and Lafayette Avenue.
- Voucher § 87(2)(b) was prepared for one plastic bag of alleged marijuana (encl. 25A). Voucher § 87(2)(b) was prepared for one black switchblade knife (encl. 25B).
- The command log for the 79th Precinct shows that § 87(2)(b) was logged in as an arrest at 12:45 a.m. (encl. 27A). His physical and mental condition was listed as apparently normal. § 87(2)(b) was charged with § 87(2)(b).

Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of March 18, 2011, with regard to the incident (encl. 31C).

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB History

- § 87(2)(b) has filed one other CCRB complaint (encl. 4A). § 87(2)(b)

Subject Officers' CCRB Histories

- PO Jessica Herrera has been a member of the service for five years, and there are no substantiated CCRB allegations against her (encl. 3A).
- PO Johnpaul Catano has been a member of the service for three years, and there are no substantiated CCRB allegations against him (encl. 3B).
- PO Jimmy Ponce has been a member of the service for thirteen years, and there are no substantiated CCRB allegations against him (encl. 3C).
- PO Kharl Pinnock has been a member of the service for seven years, and there are no substantiated CCRB allegations against him (encl. 3D).

Conclusion

Identification of Subject Officers

- PO Herrera, PO Catano, and PO Ponce each confirmed their participation in this incident.
- PO Pinnock confirmed his participation in the incident at Marcy Avenue, and § 87(2)(b) selected him in a photo series viewing as the officer who strip-searched him.

Allegations Not Pleaded

Although PO Herrera stated that both she and PO Catano used their asps against § 87(2)(b) § 87(2)(b) only alleged that he felt one blow to his body and identified that he believed PO Herrera was the officer who had struck him with an asp or baton. § 87(2)(b) did not allege that PO Catano ever used an asp against him, § 87(2)(g)

Although the roll call indicates that PO Samuel was assigned to conditions, it was unclear if he was in the van at the time of this incident. PO Samuel did not recall this incident, and his memo book recorded that he was assigned to work with PO Sullivan, PO Ponce, and PO Pinnock. § 87(2)(g)

Investigative Findings and Recommendations

Allegation A) Force: PO Johnpaul Catano used physical force against § 87(2)(b) at Marcy Avenue and Lafayette Avenue.

Allegation B) Force: PO Jessica Herrera struck § 87(2)(b) with an asp at Marcy Avenue and Lafayette Avenue.

Patrol Guide Procedure 203-11 states that officers are to use only the amount of force necessary to overcome resistance when making an arrest (encl. 1A-B). § 87(2)(b) alleged that when he saw the officers exiting the van, he stopped and put his hands up in the air, but that PO Catano ran at him and tackled him to the ground, causing § 87(2)(b) to sustain a scrape to his arm. § 87(2)(b) further alleged that almost as soon as he landed on the ground, falling face-first, he felt one blow, possibly from a baton or nightstick, impact his lower back/buttocks area, and that when he looked up, PO Herrera was standing above him.

§ 87(2)(g) PO Catano stated that § 87(2)(b) was fleeing from the officers, and that he stopped § 87(2)(b) by grabbing the back of his clothing. He described § 87(2)(b) resisting arrest by trying to push away and flailing his arms, and stated that during the struggle, § 87(2)(b) lost his balance, causing them both to fall to the ground. PO Herrera confirmed that she struck § 87(2)(b) with her asp, but stated that she swung the asp once at his legs as he was fleeing, after he had already discarded a knife. She stated that PO Catano also used an asp against § 87(2)(b)

§ 87(2)(b) and that after they had struck him, § 87(2)(b) complied by getting onto the ground—a narrative that was not supported by any other individual’s testimony.

§ 87(2)(g)

Allegation C) Discourtesy: PO Jessica Herrera spoke obscenely and rudely to § 87(2)(b) at Marcy Avenue and Lafayette Avenue.

Allegation D) Offensive Language: PO Jessica Herrera made remarks to § 87(2)(b) based upon his sexual orientation at Marcy Avenue and Lafayette Avenue.

§ 87(2)(g)

For example, he did not reiterate the allegation that PO Herrera called him a “project idiot” in his CCRB interview, though he admitted to forgetting some of her comments. § 87(2)(g)

PO Herrera and the other officers denied that PO Herrera cursed back at § 87(2)(b) or called him a “faggot.” § 87(2)(b) was too far away to overhear any of the conversation between the officers and § 87(2)(b)

§ 87(2)(b) § 87(2)(g)

Allegation E) Abuse of Authority: PO Khari Pinnock strip-searched § 87(2)(b) at the 79th Precinct stationhouse.

§ 87(2)(b) identified PO Pinnock in a photo array viewing as the officer who strip-searched him in the 79th Precinct stationhouse. However, no strip search was documented in the command log, and PO Pinnock and the other conditions officers all denied that a strip search was conducted of § 87(2)(b) § 87(2)(g)

§ 87(4-b) § 87(2)(g)

Team: _____

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date